

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

ADAM FERRARI,

Plaintiff,

v.

WILLIAM FRANCIS,

Defendant.

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CIVIL ACTION NO. 3:23-CV-455

PLAINTIFF'S ORIGINAL COMPLAINT AND JURY DEMAND

Plaintiff, Adam Ferrari ("Mr. Ferrari" or "Plaintiff"), files this Original Complaint and Jury Demand (the "Complaint") against Defendant William Francis ("Mr. Francis") and would respectfully show the Court as follows:

PARTIES, JURISDICTION, AND VENUE

1. Mr. Ferrari is an individual who resides in Orange County, California. Mr. Ferrari is a citizen of California.

2. Mr. Francis is an individual who resides in Dallas County, Texas, and may be served with process at his residence located at 15800 Spectrum Drive, Apt. 1432, Addison, Texas, 75001, or wherever he may be found. Mr. Francis is a citizen of Texas.

3. This Court has subject matter jurisdiction over this action under 28 U.S.C. § 1332(a)(1) because the amount in controversy exceeds \$75,000, exclusive of interest and costs, and because all parties are citizens of different states.

4. This Court has personal jurisdiction over Mr. Francis because he is domiciled in the state of Texas.

5. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b)(1) & (2), because this is the Judicial District in which Mr. Francis resides and because, as explained more

fully below, a substantial part of the events or omissions giving rise to the action occurred within this judicial district.

STATEMENT OF FACTS

6. Adam Ferrari is a philanthropist, entrepreneur, business owner, and independent contractor with decades of experience valuing, buying, selling, managing, and investing in mineral interests, working interests, and royalty interests throughout the United States. In 2014, Mr. Ferrari founded Ferrari Energy, which focused on the acquisition of non-operating mineral leasehold interests. Mr. Ferrari is currently an independent contractor working with Phoenix Capital Group Holdings, LLC ("Phoenix").

7. Mr. Francis is the Chief Executive Officer ("CEO") of Incline Energy Partners, L.P. ("Incline"). Like Mr. Ferrari, Incline also purportedly specializes in the professional acquisition, management, and development of working, mineral, and overriding royalty interests. Incline claims it can provide landowners with quick, above-market offers, allowing them to liquidate complex assets within days.

8. Soon after Mr. Ferrari founded Ferrari Energy, Ferrari Energy began to out-compete Mr. Francis and Incline, finding opportunities faster, valuing interests more quickly, and ultimately offering more money to prospective sellers. Mr. Francis was furious. He quickly grew discontent with Mr. Ferrari's competition and began a highly targeted, vicious campaign of harassing and defaming Mr. Ferrari with the intention of damaging his personal and professional reputation.

9. Mr. Francis' intentions to harm Mr. Ferrari soon became clear. On March 8, 2017, Mr. Francis plotted through email correspondence with a separate competitor to out-bid Mr. Ferrari in a mineral acquisition deal already in process between Mr. Ferrari and a mineral owner. A true and correct copy of the March 8, 2017 email is attached as **Exhibit A**.

10. On information and belief, Mr. Francis has also anonymously transmitted packets of false and defamatory information to Mr. Ferrari's business associates and investment companies through the mail. Upon information and belief, Mr. Francis sent one of these packets on December 6, 2017, to GTCR, an investment company in Chicago, Illinois. A letter in this packet states that "Mr. Ferrari's reckless behavior and toxic company culture" had caused his company to be named as a Defendant in six lawsuits. A true and correct copy of this letter is attached as **Exhibit B**. Mr. Francis also, upon information and belief, anonymously sent an additional packet of slanderous and defamatory information to ANB Bank in Denver, Colorado in 2018.

11. The mail was not the only vessel by which Mr. Francis published defamatory and slanderous information about Mr. Ferrari. Upon information and belief, Mr. Francis created a website in 2018 – "lawsuitsoilandgas.com" – through which he anonymously publishes information about various lawsuits filed against Mr. Ferrari and companies with which he is affiliated. Mr. Francis has anonymously sent or caused to be sent hyperlinks to this website to various business associates of Mr. Ferrari and other industry professionals.

12. Additionally, on November 14, 2018, Mr. Francis wrote an email to Eagle River Energy Advisors, a mineral interest brokerage, chastising the company for dealing with Mr. Ferrari and Ferrari Energy. Mr. Francis stated that there was "an entire website dedicated to tracking his lawsuits" referring to the website that, upon information and belief, he created. Mr. Francis then attempted to strongarm Eagle River by threatening to withhold \$325,000,000 of capital to acquire mineral rights in the area in which Eagle River operates unless they stopped doing business with Mr. Ferrari. A true and correct copy of this email is attached as **Exhibit C**.

13. On November 27, 2018, upon information and belief, Mr. Francis further caused Bryan Hymer, an employee of Mr. Francis, to send a mineral rights owner an email with a link to one of these websites and stated that Mr. Ferrari was involved in over six lawsuits to dissuade the

mineral owner from doing business with Mr. Ferrari. A true and correct copy of the November 27, 2018 email is attached as **Exhibit D**.

14. Additionally, upon information and belief, Mr. Francis contributed false or misleading information throughout 2019 to the Greeley Tribune, a Colorado-based newspaper, that it then ultimately relied on to publish various articles smearing Mr. Ferrari and his company. Upon information and belief, Mr. Francis used the Greeley Tribune as yet another vessel to spread false or misleading information regarding Mr. Ferrari in an effort to harm Mr. Ferrari and to compete against Mr. Ferrari's company.

15. Even in his personal life, Mr. Ferrari cannot escape Mr. Francis' smear campaigns. As an example, in 2020 Mr. Francis published a comment on Mr. Ferrari's personal website for the public to see, stating in part "pretty sad that you're basically admitting that you tried to steal a sick old lady's minerals. Then again, that's your business model, so shouldn't be too surprised there." A true and correct copy of the website comments are attached as **Exhibit E**.

16. Upon information and belief, Mr. Francis again in 2020 commented anonymously on Mr. Ferrari's website, this time under the username "Adam ferrari" and using the email address "criminal@gmail.com." See **Exhibit E**.

17. Mr. Francis, upon information and belief, created yet another website in 2021 – "adamferrarioilandgaslawsuits.com" – to disparage and defame Mr. Ferrari, through which he anonymously published information regarding lawsuits involving Mr. Ferrari and companies that he was affiliated with. Mr. Ferrari suspects, based on Mr. Francis' past conduct, that Mr. Francis has distributed hyperlinks to this website to various business associates of Mr. Ferrari along with other industry professionals.

18. Upon information and belief, Mr. Francis also created multiple anonymous email accounts through which he has transmitted defamatory information about Mr. Ferrari to

Mr. Ferrari's business associates, mineral rights sellers, and industry executives, falsely claiming that Mr. Ferrari was a convicted felon.

19. For example, upon information and belief, Mr. Francis, using one of his anonymous email accounts, sent an email on January 7, 2021, to executives of Hess, ExxonMobil, and other industry-leading oil and gas operators, alleging, among other things, that Mr. Ferrari was a "convicted criminal" in bold typeface. The email also contained false claims that Mr. Ferrari was the CEO of Phoenix, which is untrue, and that Phoenix was violating SEC laws. A true and correct copy of the January 7, 2021 email is attached as **Exhibit F**.

20. Mr. Francis intentionally sent this email to spread false and defamatory information to several energy industry players, stating "I mention all of this, as I don't believe it's widely known in the Bakken/Williston Basin community as to Mr. Ferrari's association with Phoenix..." and generally discouraged Hess from working with Mr. Ferrari. This email also included a hyperlink to the website allegedly created by Mr. Francis discussed in paragraph 11 above.

21. While Mr. Francis tried to cover up his misdeeds by using an anonymous email account – "concernedbakkenmineralowner@gmail.com" – his efforts to hide his identity ultimately failed. On information and belief, Mr. Francis attached an electronic file with exhibits to the email. Exhibit 12 to the email is a PDF version of a transcript page of a deposition that Mr. Ferrari gave in a previous lawsuit in which Mr. Francis was a party. The metadata of Exhibit 12 reveals its author to be "fran6359."

22. Continuing his malicious campaign, and on June 17, 2021, Mr. Francis also emailed Crystal Taylor, an individual who was in the process of closing a real estate transaction with Phoenix. Despite the fact that Mr. Ferrari has never acted as the CEO of Phoenix, Mr. Francis continued his pattern of disparagement against Mr. Ferrari, stating "I would love nothing more than to defend my company's track record versus the misdeeds that Phoenix/Ferrari has performed

over the years. Namely, the fact that their CEO was arrested and convicted for forging a mineral owner's signature in order to defraud her of hundreds of thousands of dollars." A true and correct copy of this email is attached as **Exhibit F**.

23. Mr. Francis sent this email in order to interfere with Phoenix's business, hoping to thwart a transaction by defaming Mr. Ferrari's professional reputation. Mr. Ferrari is not and never has been the CEO of Phoenix, nor has he ever been convicted of any crimes. However, Mr. Francis did not let the truth get in the way of his relentless campaign against Mr. Ferrari. **See Exhibit F**.

24. Additionally, in approximately 2021 or 2022, upon information and belief, Mr. Francis sent another one of his slanderous packets to First International Bank and Trust in order to further disparage Mr. Ferrari and damage relations between Mr. Ferrari and potential investors.

25. Mr. Francis' harmful acts unfortunately continued further into 2022. On February 28, 2022, upon information and belief and based on Mr. Francis' prior pattern of activity, Mr. Francis contacted Dalmore Capital and made additional false and disparaging statements about Mr. Ferrari. The false and misleading information disclosed to Dalmore Capital matches the telltale traits of Mr. Francis' prior defamatory communications.

26. Later, on October 10, 2022, an "anonymous packet" containing information and allegations similar to those that Mr. Francis has transmitted to others in the past, was sent by "A Concerned Colorado, North Dakota and Wyoming Interest Owner" to 4 GRLZ Investments, LLC, a Wyoming oil and gas investment company. The obfuscated identity of the sender is strikingly similar to the email address "concernedbakkenmineralowner@gmail.com" that Mr. Francis used in his communication to Hess as described in paragraphs 19, 20, and 21 above.

27. A letter in this packet again alleges that Mr. Ferrari is the CEO and managing partner of Phoenix, and that "Mr. Ferrari and his groups" had been "blacklisted" in Colorado and

had taken their "Fraudulent business up to Wyoming and North Dakota...in an attempt to continue to defraud mineral owners out of their property and money." These allegations are untrue, defamatory, and misleading, which is on par with Mr. Francis' pattern of making disparaging statements about Mr. Ferrari. A true and correct copy of this letter is attached as **Exhibit H**.

28. As shown above, Mr. Francis has acted with malicious intent to harm Mr. Ferrari's personal and professional reputation with the goal of eliminating Mr. Ferrari's participation in the oil and gas industry.

CAUSE OF ACTION

DEFAMATION, LIBEL, & SLANDER

29. Mr. Ferrari re-pleads and incorporates the preceding paragraphs set forth above.

30. Mr. Ferrari is an individual that is professionally engaged in the oil and gas industry, including acting as a philanthropist, entrepreneur, business owner, and independent contractor. Mr. Francis repeatedly defamed Mr. Ferrari by intentionally and knowingly publishing falsehoods to third parties, namely Mr. Francis' February 28, 2022, contact with Dalmore Capital and his October 10, 2022, contact with 4 GRLZ Investments, LLC. Upon information and belief, and with the benefit of discovery, Mr. Ferrari expects to find additional publications by Mr. Francis following his pattern of defamation and bad acts.

31. Mr. Francis knew at the time of the publication that his statements were false and would damage Mr. Ferrari. Mr. Francis published the defamatory statements with malice and the intent to harm Mr. Ferrari.

32. Mr. Francis' statements are reasonably calculated to harm Mr. Ferrari's reputation and expose him to public contempt or ridicule and/or financial injury. Mr. Francis' statements are further reasonably calculated to harm Mr. Ferrari's reputation, honesty, integrity, and virtue. Additionally, Mr. Francis' allegations that Mr. Ferrari is a "convicted criminal" have wrongfully

charged Mr. Ferrari with the commission of a crime.

33. Mr. Ferrari has suffered actual damages as a result of Mr. Francis' ruthless business practices, including the defamatory statements published about Mr. Ferrari. Mr. Ferrari's personal and business reputation has been harmed by Mr. Francis' defamatory statements. Furthermore, Mr. Ferrari has suffered mental anguish damages as a result of Mr. Francis' tortious conduct.

EXEMPLARY DAMAGES

34. Mr. Ferrari re-pleads and incorporates the preceding paragraphs set forth above.

35. Mr. Francis' conduct complained of herein was intentional, with malice, with conscious indifference to Mr. Ferrari's rights, and with a specific intent to cause serious harm and substantial injury to Mr. Ferrari. Mr. Francis was consciously indifferent to the harm he caused Mr. Ferrari. Based on the foregoing, Plaintiff is entitled to and seeks to recover exemplary damages against Defendant in an amount to be determined by the trier of fact.

JURY DEMAND

36. Mr. Ferrari requests a trial by jury on all of his causes of action.

PRAYER FOR RELIEF

WHEREFORE, Adam Ferrari respectfully that the Court enter judgment awarding him the following relief:

- a. Actual damages;
- b. Consequential damages;
- c. Compensatory and/or special damages;
- d. Exemplary damages;
- e. All costs of court, and pre-judgment and post-judgment interest at the highest rate permitted by law;

- f. Permanent injunctive relief; and
- g. All other relief to which he is entitled.

February 28, 2023

Respectfully submitted,

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/s/ Austin Champion

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